

**UNAPPROVED MINUTES OF THE  
MAY 13, 2003  
ADJOURNED JOINT MEETING OF  
MILPITAS CITY COUNCIL &  
MILPITAS REDEVELOPMENT  
AGENCY**

RA3

UNAPPROVED MINUTES  
CITY OF MILPITAS

Minutes: Adjourned Joint Meeting of Milpitas City Council &  
Milpitas Redevelopment Agency  
Date of Meeting: May 13, 2003  
Time of Meeting: 6:30 p.m.  
Place of Meeting: Council Chambers, City Hall

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I.  
ROLL CALL

Mayor Esteves called to order the adjourned joint meeting of the Milpitas City Council and Milpitas Redevelopment Agency at 6:30 p.m. Present were Mayor Esteves, Vice Mayor Dixon, and Councilmembers Gomez, Livengood, and Polanski.

II.  
PLEDGE OF ALLEGIANCE

Mayor Esteves led the Council and audience in the pledge of allegiance.

III.  
CITIZENS FORUM

Mayor Esteves invited members of the audience to address the Council on any subject not on the agenda.

Bal Daquigan, Milpitas, addressed the Council on behalf of the Filipino-American community and other citizens of Milpitas, read a letter stating that they were greatly honored to have the Mayor of Milpitas invited to a White House reception and dinner hosted by President Bush in honor of the President of the Philippines, Gloria Macapagal Arroyo. Mr. Daquigan said they had a great deal of pride in the community and believed that the participation of the Mayor and Mrs. Esteves in this State dinner was a rare opportunity for Milpitas and California and although there were funds in the Mayor's budget, they would be honored to fund the trip to Washington D.C. for Mayor Esteves and presented a check for \$1,300.00.

Trini Aoalin, Milpitas, continued with the letter stating that they were pleased Mayor Esteves would be pursuing other official business while in Washington, including funding for BART to Milpitas and other transportation matters, discussing high technology economic issues, and ensuring that community level funding concerns are raised at the highest levels of the Federal government. Ms. Aoalin further stated they especially appreciated the support of Vice Mayor Dixon and Councilmember Polanski for giving their respect to and honoring the Filipino-American community in particular and the City of Milpitas in general. Ms. Aoalin asked that the City accept their donation to the City to reimburse the expenses of the Mayor's trip and asked to whom the check should be given. City Manager Wilson responded that the check could be provided to the City Clerk who would pass it on to the appropriate staff.

Mayor Esteves expressed appreciation for the support, said he was very pleased and honored to be Mayor of Milpitas, and said it was good for the City of Milpitas to have responsible citizens such as the representatives of the Filipino-American community in the audience.

IV.  
AGENDA

MOTION to approve the agenda as submitted.

M/S: Gomez, Polanski.

Ayes: 5

849

V.  
PUBLIC HEARING  
FISCAL YEAR 2003-2004  
BUDGET

Overview

City Manager Thomas Wilson outlined the procedure for the 2003-04 Budget Hearing explaining that an overview of the proposed budget would be presented, the operating departments and divisions would make presentations, the Redevelopment Agency budget would be presented, the Capital Improvement Program would be reviewed, and the Council would discuss and provide direction. Mr. Wilson reported that the focus of the Fiscal Year 2003-04 budget was to assist the City Council in the achievement of its vision for Milpitas and to ensure the delivery of quality, timely, and cost-effective services to the community while continuing to meet future fiscal challenges in the most professional and responsive manner. Mr. Wilson further reported on the budget process and stated that this year a balanced budget was developed that proposed cost savings and judicious use of some of the reserves. Mr. Wilson reviewed the policy direction of the budget and stated the budget would continue the present hiring freeze in all non-public safety positions, provide funding for MOU negotiated increases and a proposed 5 percent salary increase for Management, Unrepresented, and Confidential employees, maintain the city's valuable human resources without layoffs, and aggressively reduce General Fund services and supplies expenditure budgets.

Councilmember Livengood inquired if the contingency plan was ready or was it being prepared. Mr. Wilson responded it had been prepared, defined, discussed, and was now being reviewed in its last stages by the associations. Councilmember Livengood asked if the Council had received any information on what it consisted of. Mr. Wilson said it was a program that would have the City employees participating in a State impact on the General Fund with salary reductions to accommodate on an equitable basis the dollars taken away by the State; for each \$1 million of need, every employee would be asked to participate at the rate of 2.24 percent per million dollars of need. Mr. Wilson further stated the range of impact was anticipated at \$2-\$3 million and the plan had provisions for as much as \$5 million; the associations had been briefed extensively on it and two mechanisms for accomplishing this had been identified with one method being a straight deduction and the other was taking an amount that would be used by the City to pay a portion of the employer's PERS. Mr. Wilson reported that the associations have been working collectively and individually, top staff has been taking a leadership position, today the Fire Department top staff informed the Chief they were committed and on board with the program, the Manager's Office was along with other department leadership, and it was anticipated this was a way to provide an equitable distribution of the impact. Councilmember Livengood asked if, for whatever reasons, we don't reach that agreement with the employee groups and the State decides to take away, what happens then. Mr. Wilson responded Plan B was being worked on to prioritize a presentation to the Council in the area of a reduction in services along with a reduction in force. Councilmember Livengood asked for confirmation that the City Manager recommended at that point not taking any more out of reserves. Mr. Wilson said he didn't believe that would be a judicious move. Councilmember Livengood said another issue brought up at the last meeting was reserves and commented that this budget projected that reserves will go up; if that was not the case, it would leave a \$2.5-\$3 million shortfall, and asked the City Manager what he would propose to do to fill that gap if that happened. Mr. Wilson responded if that occurred, staff would be back to the Council with an employee participation program or a reduction in force. Councilmember Livengood said he thought that was a very judicious approach to say we will use some of the reserves; he thought it was prudent to get to that point and make it clear that from that point forward there will have to be some cuts. Mr. Wilson said several meetings had been held over the last three or four months and he felt the employees understood. Mr. Wilson further stated that employees were also told that it would be recommended to the Council that a commitment be made for the future, without a time specific, for a return/payback of the amount contributed by employees on a dollar-for-dollar basis to employees (still working for the City).

Mayor Esteves said he thought it was a good proposal on behalf of the unions and inquired why the focus was just on expenditures. City Manager Wilson responded that staff was working to finance the priorities and the Capital Plan; the Council last year allocated \$5 million to jump-start the program for the Library construction; and staff did have a plan to finance the Library under whatever circumstances without that capital resource.

Director of Finance Emma Karlen reviewed property tax revenue projected for an increase for next year, revisions in sales tax revenues expected to increase three percent next year, and transient occupancy tax revenues expected to decrease approximately 18 percent. Ms. Karlen reported the proposed Fiscal Year 2003-04 budget was \$99,232,847 for all funds and represented a 5.9 percent decrease from the current year's budget. Ms. Karlen further reported the proposed General Fund budget for 2003-04 was \$60 million and reflected an overall decrease of 2.75 percent.

Mayor Esteves commented that the decrease was in services and supplies and asked what was the bulk of the services. Ms. Karlen responded it was due to reductions for utilities, training costs, and supplies but did not include program cuts.

### **Department Presentations**

#### *City Council*

City Manager Wilson reviewed the accomplishments, objectives for the coming fiscal year, and presented the budget for the City Council showing an overall decrease of \$66,107. Councilmember Polanski inquired if the Council could get a list of appropriations the Council has approved throughout the year from the Community Promotions budget. Mayor Esteves said he would like to compare accomplishments to the planned goals at the beginning of the year for all departments. Vice Mayor Dixon asked that for Accomplishment 10, the words "award winning" be added before housing element.

#### *City Manager RDA/Economic Development*

City Manager Wilson reviewed the accomplishments, objectives for next year, and presented the budget for the City Manager's Office showing an overall decrease of \$68,806 with no staffing changes proposed. Mr. Wilson also presented the Redevelopment and Economic Development budget showing an overall decrease of \$200.00. Councilmember Livengood inquired if any study had been done of the potential impact on the General Fund of increasing the Redevelopment Agency tax increment ceiling. Mr. Wilson responded that a specific study had not been done. Assistant City Manager Blair King added that the Redevelopment Agency compensates the General Fund for assistance to the Agency and the amount was nearly identical to what the City would receive if the Agency didn't exist.

#### *City Clerk*

City Clerk Gail Blalock reviewed the accomplishment, objectives for next year, and presented the budget for the City Clerk showing an overall increase of \$5,415, with no staffing changes proposed.

#### *Engineering*

City Engineer Mike McNeely reviewed the accomplishments, objectives for next year, and presented the budget for Engineering representing an overall decrease of \$24,984, with no staffing changes proposed. Councilmember Gomez commented that in looking at the performance indicators, it appeared the same workload was being accomplished with fewer staff and still providing a good level of service. Councilmember Gomez asked why was the vacancy factor being maintained and why not eliminate the vacant positions. City Manager Wilson responded that Councilmember Gomez's assessment was accurate, staff was maintaining services with fewer people and had not provided a recommendation to the Council to eliminate them. Councilmember Gomez said that if we seem to be operating effectively now, he didn't see the need to bring back those positions. City Manager Wilson proposed that within the first half of the next fiscal year to do an assessment that had not been done yet to see if there are some positions that could be eliminated.

#### *Building*

Chief Building Official Edgar Rodriguez reviewed the accomplishments, objectives for next year, and presented the budget for Building representing an overall decrease of \$183,115, noting that the decrease reflected the net dollar impact of all negotiated and scheduled increases in salaries and benefits offset by new frozen positions in the current fiscal year. Mayor Esteves asked how many positions were vacant right now. Mr. Rodriguez responded three: a Senior Building Inspector, a Plan Check Engineer, and a Building Inspector. Mayor Esteves inquired of how many inspectors. Mr. Rodriguez responded seven. Mayor Esteves said he was glad to hear three positions were vacant because it related to the reduced

workload. Vice Mayor Dixon asked if Jim Dutton could provide the Council with a written update on the Mobile Home Park Program and what has happened over the past year.

*Information Services*

Deputy Information Services Director Terry Medina reviewed the accomplishments, objectives for next year, and presented the budget for Information Services showing an overall decrease of \$116,489, with no staff changes proposed. Councilmember Livengood inquired about mobile phones and inquired if they were being tracked to prevent abuse. Mr. Medina explained that following the negotiations and audit of cell phone usage, all minutes were pooled for phones and radios, departments have cut down on the number of phones, and an overall savings has been realized.

*Human Resources*

Human Resources Director Cherie Rosenquist reviewed the accomplishments, objectives for next year, and presented the budget for Human Resources showing an overall increase of \$39,443, with no staffing changes proposed. Councilmember Livengood commented on the potential for a new bargaining unit and inquired if that would be a work element for Human Resources or would it fall on another department. Ms. Rosenquist responded Human Resources would be involved and working to put together a new MOU. Vice Mayor Dixon asked for clarification that this would open up a new MOU process. Ms. Rosenquist responded yes, a new MOU would be established. Councilmember Polanski commented that based on the email, that would be coming to the Council at a June meeting. Ms. Rosenquist said it would be at the next Council meeting.

*City Attorney*

Assistant City Attorney John Bakker reviewed the accomplishments, objectives for next year, and presented the budget for the City Attorney showing a decrease of \$30,000. Vice Mayor Dixon reported that last week she and Councilmember Polanski had a scheduled Attorney Subcommittee meeting and part of their discussion was to try and look at other areas where costs could be reduced and their recommendation was to direct Meyers Nave to look for cost recovery opportunities, which would be coming forward to the Council.

*Finance*

Finance Director Karlen reviewed the accomplishments, objectives for next year, and presented the budget for the Finance Department showing an overall decrease of \$113,307 stating that the decrease reflected the net dollar impact of all negotiated and scheduled increases in salaries and benefits offset by new frozen positions in the current fiscal year and no staffing changes were proposed.

*Non-Departmental*

Ms. Karlen also reviewed the Non-Departmental budget, which included costs not specific to any one department, and showed an overall decrease of \$3,435,188 resulting from decreases in utility costs, elimination of the lease with the Great Mall, a reduction in the ABAG insurance pool premium, and a \$1.14 million reduction in the City's contribution to the water treatment plant. Vice Mayor Dixon asked for information offline on what the \$10,000 contribution to Joint Venture buys the City. City Manager Wilson said staff would provide the information to the Council in a memo.

**RECESS**

Mayor Esteves recessed the City Council meeting at 8:53 p.m. The Council meeting reconvened at 9:03 p.m.

*Public Works*

Public Works Supervisor Carol Randisi reviewed the accomplishments, objectives for next year, and presented the budget for Public Works showing an overall decrease of \$48,850, with no significant staff changes proposed. Councilmember Livengood inquired how many vacancies there were in Public Works. Ms. Randisi responded 9 out of 95.

*Planning, Transportation & Neighborhood Services*

Planning Manager Tambri Heyden reviewed the accomplishments, objectives for next year, and presented the Planning & Neighborhood Services budget showing an overall decrease of \$81,424, with no staffing changes proposed. Vice Mayor Dixon, referring to page 172 of the budget document, requested that in Accomplishment 3 the Milpitas Foundation for Education be identified as the vehicle for bringing in the Traffic Safe Communities Network grant. Vice Mayor Dixon shared an idea she saw in the City of Folsom quarterly newsletter about a check-off box on utility bills allowing residents to include a donation to the Folsom Cultural Arts Commission along with utility payments. Vice Mayor Dixon said she had heard a lot of

comments lately that people would like to find a way to contribute and suggested passing this idea on to the City's Arts Commission for review. Councilmember Gomez inquired how long it takes to abate a vehicle. Senior Housing & Neighborhood Preservation Specialist Gloria Anaya responded staff's goal was three days and a maximum of five days. Councilmember Livengood added that on public streets it was quicker – three days. Councilmember Gomez said his question was for public streets. Mayor Esteves, referring to the Performance Indicators on page 168, pointed out that the number of code violations abated was increasing and said he thought there should be a program to reduce the number of code violations. City Manager Wilson commented that the recently adopted administrative citation process should help. Councilmember Gomez inquired if staff did code enforcement sweeps. Ms. Anaya responded staff does its best and when calls to certain streets are received, staff will go out and look at the area.

#### *Recreation*

Recreation Services Manager Bonnie Greiner reviewed the accomplishments, objectives for next year, and presented the Recreation Services budget showing an overall decrease of \$21,123, with no staffing changes proposed. Councilmember Polanski inquired if the participation of non-residents had increased because surrounding communities were cutting back on their programs. Ms. Greiner responded approximately 90 percent of all classes were residents and non-residents paid an additional \$10 per class; if they participate in sports, that amount was increased. Councilmember Polanski commented that this might be an area to look at, especially as surrounding cities continue to cut services; the Council may want to consider increasing fees for non-residents. With respect to waiving fees, Councilmember Polanski said she believed there probably were hidden costs the Council may not be aware of; she thought it was important for the Council to know all of that so when the Council makes a decision to waive fees, the Council knows the total impact. Mayor Esteves commented that for non-profits, the Council may want to recover the City's costs. Mayor Esteves also commented that some people were interested in using the lobby of City Hall. Ms. Greiner responded that there was a committee looking into the rental of all City facilities, including City Hall.

#### *Police*

Police Chief Charles Lawson reported that Milpitas continues to be one of the safest cities of its size and violent crime was down 14 ½ percent the last two years. Chief Lawson reviewed the accomplishments, objectives for next year, and presented the Police Department budget showing an overall increase of \$1,490,066 due to increased costs for benefits and negotiated salary increases and no staffing changes except for the transfer of the Vehicle Maintenance Assistant position to Fleet Maintenance. Councilmember Gomez said he thought the safety ranking should be included in the Performance Indicators. Councilmember Polanski commented that the Police assist with community-wide events, there will be some upcoming events, and asked if there was any documentation the Police could provide as to the costs incurred in assisting with those events. Chief Lawson responded that they try to schedule people on duty to avoid overtime, at times people are brought in early or held over and they are only used when needed to avoid overtime. Councilmember Polanski called attention to Objective 4 on page 184, to introduce and teach the new DARE curriculum to 5<sup>th</sup> grade students. Chief Lawson commented that the lesson plans were still received from the LAPD. Councilmember Polanski said she knew the Milpitas School Board de-funded the Resource Officer at the Middle Schools and inquired if that was part of this funding. Chief Lawson responded that they budget for all the Officers at the schools, the School District did reimburse the City and a grant also assisted; however, the City was now picking up the full cost. Councilmember Polanski said she believed those have been extremely valuable and was pleased to see they were still part of the budget. Mayor Esteves inquired about the DARE Program. Chief Lawson responded last year it was funded partially with a grant, by the City, and by the School District; the grant ran out and the School District is not able to pick up its cost so the City is paying for the entire DARE Program. Councilmember Livengood asked about the trend on Police response times. Chief Lawson responded response times were about the same at four minutes, 30 seconds for emergency calls. Councilmember Livengood inquired if the Police Department was fully staffed. Chief Lawson responded there were two vacancies – one Police Officer and one Dispatch Supervisor. Councilmember Livengood asked for confirmation that they were not part of the freeze. Chief Lawson said he planned to fill them.

## **Fire**

Fire Chief Bill Weisgerber reviewed the accomplishments, objectives for next year, and presented the Fire Department budget showing an overall decrease of \$380,216. Vice Mayor Dixon, referring to the "Learn Not To Burn" program for preschoolers listed in the Objectives, suggested that someone from the Fire Department attend the City/School District committee meeting in August to make a presentation on the program and see if the School District might be interested in implementing it at the kindergarten level. With respect to the Weapons of Mass Destruction operations, Vice Mayor Dixon asked that a demonstration be made at a future CEPAC meeting to show what the City got for its \$1.2 million. Vice Mayor Dixon commented that at the last meeting of the Santa Clara County Emergency Preparedness Council, it was reported that the grant money coming out of Washington was sporadic, the amount was going down, the latest \$3.5 million grant needed to be turned around by May 30, and this group collectively decided to send a letter emphasizing the need for local control and that was what all 15 cities were asking the Governor right now. Mayor Esteves said he thought the Fire Aide Program should be listed as an Accomplishment. Councilmember Polanski commented that one of the CAC's goals is to increase participation in the National Night Out Program and to see Police and fire at all the events. Councilmember Polanski asked for information on how that would affect any overtime. Chief Weisgerber responded Fire staff meet with the CAC Committee and planned to use a "whistle stop" approach making 5-10 minute stops within each engine company's own district, which could be done with on-duty staff. Councilmember Polanski inquired if there was any cost recovery for inspections and the basis of the fee. Chief Weisgerber responded the fees cover one hour inspection and one hour administrative time. Vice Mayor Dixon inquired, with respect to the issue of cost recovery, if there was a difference in the fee based on the inspection, i.e., for a business versus a childcare provider. Chief Weisgerber responded that staff was currently reviewing the fee schedule. Councilmember Livengood inquired about the Fire Department staffing level. Chief Weisgerber responded they were down two positions – two in the Bureau and two firefighter/paramedic positions. Councilmember Livengood asked if the Chief was in the process of filling the vacancies. Chief Weisgerber responded the 40 hour positions were being held open because they were not line positions; the other two positions were scheduled to coincide with the semi-annual Fire Academy. Councilmember Livengood asked what has happened with the response time. Chief Weisgerber responded it was calculated from the time the alarm is received at the fire station to the stop of the wheels at the curb and was three seconds faster than last year. Councilmember Livengood commented that the Council used to receive an amount of damage/fire loss and asked if that information was still being provided. Chief Weisgerber responded it now was reported in the monthly report, last year it was \$460,000, and this year to date it was \$1.34 million.

## **Redevelopment Agency**

Director of Finance Karlen reviewed the Redevelopment Agency proposed revenues of \$36,167,616 and expenditures and other financing uses totaling \$20,990,434 for Fiscal Year 03-04. Ms. Karlen reported the fund balance as of 6/30/04 was projected at \$92,766,649.

## **Five-Year Capital Improvement Program**

City Engineer McNeely reported the Five-Year Capital Improvement Program was reviewed by the Parks, Recreation, and Cultural Arts Commission on April 7, 2003; found in Conformance with the General Plan by the Planning Commission on April 9, 2003; and reviewed by the City Council on April 15, 2003. Mr. McNeely further reported the goal was to deliver \$30 million (97 projects) through 2003-04 and staff would be making periodic reports to the Council. Mr. McNeely briefly reviewed the list of Community Improvement projects.

## **2003-2004 Capital Improvement Program**

Councilmember Gomez said he thought from the last Council discussion of the Library there was a request to include a cost. Mr. McNeely responded when the costs were better known, they would be assigned to the project and staff was planning to come back with that information. Councilmember Gomez asked if staff couldn't make an educated guess on what the cost would be. Vice Mayor Dixon said the last time an estimated guess was made, we got hit on City Hall so until this Council decides what that building will look like, how big it will be, and the whole scope of the project, it was dangerous to get out there with an estimate. Councilmember Gomez said the public has a right to understand what the Council plans to spend on this building. Vice Mayor Dixon responded absolutely. Councilmember Gomez

commented that one of the Capital policies was we will provide an estimated cost for every program. Vice Mayor Dixon said you have to reach a point to know what that design is even going to be. Mayor Esteves said he was a member of the subcommittee and would feel more responsible before giving an amount to wait for the design concept, which was in process, and, hopefully, after that we will have an educated estimate.

Councilmember Gomez said you give the public an estimated guess as to what that will be and as you get closer to the project, you refine that number. Mayor Esteves said he didn't want to do that because for City Hall that was done, it was taken advantage of by some people, and for him that would be deceptive. Councilmember Gomez read from page 240 of the Operating Budget that "the CIP will identify the estimated full cost and potential funding sources for each proposed capital project" and suggested that the policy needed to be changed.

Councilmember Polanski commented that the CIP has \$636,244 to start design, which she thought staff felt was what it was going to cost to do the design; she hadn't seen any on the size of the building or the parking configuration, and this Council had not decided on what that new building should look like or entail and so throwing out a number on something that won't be on the CIP until 2004-05 she thought was inappropriate and would make the Council look foolish. Councilmember Gomez said he saw no problem in throwing out a number and called attention to page 4 of the letter from the City Manager in the CIP that states "estimates range from educated guesses for funding of conceptually desirable projects to detailed design estimates for projects ready to go out to bid.." and said he saw nothing wrong with using an educated guess on this. Mayor Esteves said we don't have an educated guess or estimate.

City Engineer McNeely continued on with the Parks, Streets, Water, Sewer, and Storm Drain projects. Vice Mayor Dixon inquired about the status of the information on Proposition 218. Assistant City Attorney Bakker responded it was being worked on and should be in the Council's mail over the weekend. Mr. McNeely commented on the impact of the 2003-04 CIP on operating budgets. Mayor Esteves asked if the Council would be receiving quarterly reports. Mr. McNeely responded yes.

City Manager Wilson said that concluded the staff presentations.

#### ***Public Input***

Mayor Esteves invited public comments. There were no comments.

MOTION to close the public hearing.

M/S: Dixon, Polanski.

Ayes: 5

Councilmember Livengood said the reason he thought the budget plan was acceptable and reasonable was because it used some reserves but a line was being drawn in the sand and any budget shortfall would be dealt with differently than just dipping into reserves; there were some dark clouds on the horizon but he thought it was responsible to say that reserves would be returned to 15 percent and no lower, and he thought this was a fair approach and would support it.

Vice Mayor Dixon commented that over the past week she had collected newspaper articles of what has been happening in other cities and she was very proud of this city right now and of the fact that Milpitas has acted in a very proactive nature. Vice Mayor Dixon said Milpitas was one of the first cities to implement a hiring freeze, she felt some gains were about to be made, and she saw us coming out of it. Vice Mayor Dixon shared some of the ways other cities were addressing budget shortfalls by raising fees, closing libraries, not maintaining parks, cutting jobs, and scheduling unpaid furloughs, and she wanted the residents of Milpitas to know that Milpitas was able to get to this point by cutting supplies and services, by doing it collectively, and by being proactive.

Councilmember Polanski commented on how well staff had performed and also those members of the Council who have been here for the last two years because they made some good decisions that helped get to this point and agreed the reserves should not go below 15 percent.



Mayor Esteves said he really appreciated the belt-tightening and still being able to provide lots of good services. Mayor Esteves further stated one area he thought should be looked at was the schools and later this year he might be proposing some help or assistance to the schools by tapping the City Manager's contingency reserves as it was something he felt the Council should start looking at and start working with the schools.

**MOTION to:**

1. Conceptually approve the 2003-2004 City/Agency proposed budget;
2. Conceptually approve the Preliminary Five-Year Capital Improvement Program budget (2003-2008);
3. Conceptually approve the 2003-2004 Capital Improvement Program budget; and
4. Conceptually approve salary adjustments for management, unrepresented and confidential employees.

M/S: Dixon, Polanski.

Ayes: 4

Noes: 1 (Gomez)

**VII. ADJOURNMENT**

There being no further business, Mayor Esteves adjourned the joint meeting at 10:45 p.m.

Gail Blalock, CMC  
City Clerk/Secretary

**UNAPPROVED MINUTES OF THE  
MAY 20, 2003  
REGULAR MEETING OF MILPITAS  
REDEVELOPMENT AGENCY  
(INCLUDING JOINT MEETING WITH  
CITY COUNCIL)**

UNAPPROVED MINUTES  
CITY OF MILPITAS

Minutes: Regular Meeting of Milpitas Redevelopment Agency (Including  
Joint Meeting with City Council)  
Date of Meeting: May 20, 2003  
Time of Meeting: 8:04 p.m.  
Place of Meeting: Council Chambers, City Hall

**RA1.  
CALL TO ORDER**

Mayor Esteves called to order the regular meeting of the Milpitas Redevelopment Agency, meeting jointly with the City Council, at 8:04 p.m.

**RA2.  
ROLL CALL**

Present were Mayor Esteves, Vice Mayor Dixon, and Agency/Councilmembers Gomez, Livengood, and Polanski.

**RA3.  
MINUTES**

MOTION to approve the Redevelopment Agency minutes of May 6, 2003, including joint meeting with the City Council, as submitted.

M/S: Dixon, Livengood.

Ayes: 5

**RA4.  
AGENDA**

MOTION to approve the agenda and consent calendar as submitted.

M/S: Gomez, Livengood.

Ayes: 5

**RA5.  
JOINT PUBLIC HEARING  
8<sup>TH</sup> AMENDMENT TO PLAN**

Mayor Esteves reported this item was a joint hearing of the Redevelopment Agency and the City Council to consider and act upon the proposed Eighth Amendment to the Redevelopment Plan for the Redevelopment Project Area No. 1; the State Law under which the Agency/Council were acting was the Community Redevelopment Law and required certain procedures to be followed in the conduct of the joint public hearing; and prior to opening the Joint Public Hearing, the Agency would consider a resolution to make non-substantive changes to the legal description for the added area boundary.

Assistant City Manager Blair King reported that prior to the opening of the public hearing, staff recommended that the Agency adopt a resolution to make technical and non-substantive changes to the legal description for the added area; five parcels totaling 1.5 acres were affected; portions of these parcels were inadvertently included in the original legal description/map; when the map was prepared, certain street center-lines and older lines of record were followed which resulted in dividing assessor's parcels; at the request of the assessor's office, these errors will be corrected by deleting these five parcels; and recommended that the Agency adopt the Resolution Amending the Legal Description.

MOTION to adopt Agency Resolution No. RA200 approving the amendment to the legal description for the Added Area for the Milpitas Redevelopment Project No. 1.

M/S: Dixon, Polanski.

Ayes: 5

Mayor Esteves opened the joint public hearing and invited comments noting that comments from the public were limited to two minutes or less and the public may comment on both the Plan Amendment and or the EIR. Mayor Esteves explained the order of procedure and then asked the City Manager to proceed with the receipt of evidence and testimony. City Manager Thomas Wilson said the Assistant City Manager would present the staff report and introduce the team of expert consultant who have assisted in the preparation of the Eighth Amendment.

Assistant City Manager King reported this was an important and complicated amendment; the City had secured the services of some of the best experts in the State; the consultants were present as resources; however, the purpose of the public hearing was to receive comments and testimony; staff was not intending to respond to questions at this meeting other than to clarify information presented and to answer questions from the Council/Agency. Mr. King introduced consultants who assisted with the amendment who were present in the audience:

Paul Anderson and Charles Kovac with Keyser Marston; Don Fraser with Fraser & Associates, Ernie Glove, with GRC, and David Beatty and Ethan Walsh, special legal counsel.

Mr. King reported the notice of the joint public hearing was published once a week for five successive weeks in the Milpitas Post; notice of the hearing, together with a statement concerning acquisition of property by the Agency for non-residential properties in the Added Area, was mailed by first class mail to each assessee of record in the Existing Project Area and Added Area as shown on the last equalized tax roll; the same notice was also mailed by first class mail to businesses and residences in the Existing Project Area and Added Area; the notice of the joint public hearing was mailed by certified mail, return receipt requested, to each of the governing bodies of each taxing agency in the Existing Project Area and Added Area; and the certificates of these mailing and publications were entered into the record as Exhibits 1 through 3.

Mr. King, using a power-point presentation presented introductory background comments about the history of the Existing Project Area and redevelopment process provided in the law, and reported the proposed Eighth Amendment would add approximately 691 acres of the Midtown Area to the Existing Project Area; increase the tax increment limit in the Existing Project Area from \$502 million to \$2.4 billion for the Existing Project Area and the Added Area; increase the bond debt limit for the Existing Project Area and Added Area from \$75 million to \$498 million; limit the Agency's authority to use eminent domain within the Added Area to commercial property; and revise and update various text provisions to conform to the requirements of State law. Mr. King explained that the amendment would not raise taxes and would not change land use. Mr. King also explained the reasons for requesting the extension of the life of the Agency were to complete the partially constructed public works projects within the existing project area, to complete the mitigation measures for previously approved projects, and to construct infrastructure needed to facilitate development of remaining and underutilized and vacant sites. Mr. King reviewed proposed projects in the new area that included implementation of the Midtown Specific Plan, an economic stimulation plan, streetscape, parks and public benefit projects, transportation improvements, utilities, and affordable housing. Mr. King explained that it may be necessary to exercise eminent domain authority to implement redevelopment activities; prior to any contemplated acquisition, there would be a separate hearing on the action and there would be adequate compensation and relocation of businesses as required by law and in accordance with the relocation provisions of the law which were described in the Report to City Council before the Council. Mr. King reported the Amended and Restated Redevelopment Plan, the Rules Governing Participation by Property Owners, and the Extension of Reasonable Preferences to Business Occupants, and the Report to City Council were included in the record as exhibits.

Paul Anderson, Keyser Martin, reported the documents before the Council were a compilation of the required documents and actions that had been prepared or taken in the amendment process; the report included the financial feasibility analysis and the documentation of the existing conditions, also referred to as the "blighting conditions"; the information was the same information that was included in the previously adopted preliminary report which was approved by the Agency and transmitted to the taxing agencies; the documents included the required information to support the Agency/Council's action in adoption of the Eighth Amendment; the report also included the Planning Commission's report and recommendations determining that the proposed amendment was consistent with the MidTown Specific Plan and the General Plan; also included was the EIR for the proposed amendment, which did not identify any environmental impacts that could not be mitigated with the implementation of the Eighth Amendment. Mr. Anderson further stated that the report to the Council included a planned method of relocation that required the Agency to provide relocation benefits to any business or resident displaced as a result of Agency's action, even if voluntary; these assurances as well as proposed time and financial limits were also incorporated in the amendment and restated Redevelopment Plan which described the Agency's authorities and responsibilities in implementing the Redevelopment Plan; and the report included a summary of consultations with the community which included a community information meeting held on March 31, 2003, and a summary of consultations with the affected taxing agencies; and the agencies had on-going discussions with the County and Milpitas Unified School District and

the County Office of Education; there were no objections to the Eighth Amendment received by the taxing agencies.

Mr. King stated that one of the requirements was that the financial projection and feasibility be prepared for the Council/Agency, which was prepared by Don Frazer.

Don Frazer, Fraser & Associates, stated one of the findings that had to be made was that the Plan continued to be financially feasible and parts 5, 6, and 7 of the report addressed those issues; he worked with staff to identify the projects and programs the Council/Agency wished completed in both the existing and added areas along with the costs of those projects and programs; long-term financial projects were run (tax increment projections) based on both completing development within the existing area and also the kind of development the Council/Agency wanted to see under its Specific Plan; costs were compared to revenues to ensure that the Plan was feasible; without an amendment, there would be no additional revenue for the existing area; and tax increments and bond limits were done through standard methodology, which looked at the costs to complete the programs of redevelopment and factoring in contingencies, escalations, cost of money, etc., to arrive at what the new limits would be.

Ernie Glover, who prepared the EIR, stated there were no unavoidable, significant adverse impacts identified, and no mitigation measures were required as part of the implementation of the project; any implementation measures were contained in the EIR for the MidTown Specific Plan; the draft EIR was circulated between January 20<sup>th</sup> and March 14<sup>th</sup> of 2003; four comments had been received (PG&E, Santa Clara Transit Authority, Santa Clara Water Department, and Roads and Airports Department); and all of the comments added minor factual data to the report.

Mr. King informed the Council/Agency that special legal counsel, Dave Beatty, had been used for the project due to the complexity of the law.

David Beatty, McDonough Holland & Allen, said the plan amendment process was lengthy and complicated, similar to a plan adoption process; it started with the preliminary plan and owner participation rule; there was a separate procedure for compliance with the California Environmental Quality Act (CEQA), which resulted in the described EIR; and a procedure resulting in the actual amendment to the Redevelopment Plan itself currently before the Council/Agency; and notices of the hearing had been sent to all the property owners, the business owners, the residents, and the community organizations.

Mr. King summarized that the Amendment and Restated Plan were included as an exhibit before the Council; the rules for owner participation were also included; the report to the Council was included as an exhibit; there was also a supplemental report included as an exhibit, which documented that the Planning Commission found that the ordinance (the amendment) was compliant with the General Plan and recommended adoption of the ordinance; and the EIR required action from both the Agency and the City Council.

Mayor Esteves asked the City Clerk to read into the record the names and addresses of persons or organizations that had submitted written statements concerning the proposed Eighth Amendment.

City Clerk Gail Blalock stated two letters had been received; one from Pacific Gas & Electric, 111 Almaden Boulevard, San Jose; and a letter from Garbe's Towing, 130 Windsor Street, Milpitas.

Mayor Esteves stated the proposed Eighth Amendment report to the Council, the final Environmental Impact Report, the Rules Governing Preferences to Owners and Occupants, and the affidavits of the hearing notice would be made a part of the record along with the staff presentation and any other documents received.

Mayor Esteves opened the public hearing and invited comments.

Richard Ruth, Milpitas, said the redevelopment system puts high stress and demand on a blight analysis; commented on a court case involving a redevelopment project in the City of Diamond Bar that was rejected because they neglected to do an adequate job on the blight analysis; and thought for the amount of money that this City was committing to, \$2.4 billion, it should get an accurate appraisal of the areas being looking at to take into this project area.

Frank Fiscalini, San Jose, representing the Sweat family, owners of the property at 100 S. Main Street, stated the Sweat family has operated their business for 24 years, Phil Sweat was in the audience, he fully intends to operate for another 24 years and the business has potential to remain in the family for a long period of time. Mr. Fiscalini said chills go through one's spine when a notice indicates that non-residential property owners face eminent domain possibilities, this conjures up many fears and often times it can have negative consequences on property owners and their business. Mr. Fiscalini urged extreme caution, as the Council moves forward, in the exercise of the use of eminent domain, particularly in the early stages. Mr. Fiscalini said they would also like to receive a copy of the city's relocation plan; he was aware that the Midtown Plan provides some protection for businesses; and commended the Council on the development of that plan and thought it was very well done.

Bob Cracolice, property owner, said his concern was the same as Mr. Fiscalini; he thought what was being done was great and supported it thoroughly until he read about eminent domain, which put doubts in his mind for his property that will be put in the redevelopment area. Mr. Cracolice said he would appreciate some assurance or some heads up on what the City's plans were for eminent domain.

John Bettencourt, representing his mother and family, owners of 134-158 S. Main, Central Plaza, said eminent domain had caused some panic with them and with tenants; tenants who received the letter had expressed some real concern and that could present problems for them as leases come up; it could have some real definite negative impact financially on the family; and he wanted to express his concerns and ask the question "what's up" and hoped to get some answers.

Assistant City Manager King explained the purpose of the public hearing was to receive comments and testimony from the public and staff would be happy to respond to comments and questions from the Agency through the Chair if there was desire to respond to issues raised concerning eminent domain.

Vice Mayor Dixon recalled that in 1991, her first assignment on the Planning Commission was to work out an agreement with the property owners and business owners within the Main Street/Abel Street area; once elected to the Council, the ground work was started for the MidTown Plan with the assistance of many staff members; it took approximately four years; the issue of eminent domain was not one of her priorities; her goal was to help assist and facilitate to see if something could be done to create a downtown for Milpitas; with this amendment, it would move forward with the necessary funding; speaking for herself, she wasn't looking at eminent domain but asked, through the Mayor, if the issue of eminent domain was just a part or a form of protection of the unknown for the future?

Mr. King responded, through the Chair, the City was required to provide the information on eminent domain to the residents that we provide the notice to; this was a legal mandate but was not intended to cause concern or alarm, but was a requirement of the state law; in the previous plan amendments, there was that ability; however, the Agency chose not to exercise that to the best of his research; there presumably would be no intention to exercise that in the future; however, this plan does provide the ability within the context of the Redevelopment Plan to exercise that authority for a 12 year period.

Councilmember Livengood said he wanted to speak to a couple of points: The Redevelopment Agency itself, and as staff indicated, was first adopted by the City fathers back in 1958, but they didn't do anything with it, they simply adopted a Redevelopment Agency; in 1976, the City Council proceeded with – actually creating an Agency and

collecting the increment dollars; that was part of an economic development program that was adopted by the City in '76 because there wasn't much of a tax base other than Ford Motor; it was an attempt to kick start the development of the City; since that time, there have been many amendments but he couldn't remember any time when the power of eminent domain was used. Councilmember Livengood further stated the intention has never been for the Milpitas Redevelopment Agency to become a monster that would go out and grab up properties owned by our citizens or our business owners, that had never happened, and he didn't believe it will happen in this case, and it certainly wasn't his intent to do that. Councilmember Livengood commented on the use or redevelopment to secure developments and improvements that help the business community, such as the Town Center, and now working on this amendment for the MidTown Plan; there had been attempts in the past to improve Main Street and none of them really worked but he thought this would work, given the right amount of time and the right amount of investment. Councilmember Livengood said the only way he could answer Mr. Bettencourt and the other fears about eminent domain tonight was to say he had no interest in it, it was not the way we're going to build our downtown area up; in fact, we need the small business people to work with us; he understood the consternation that anybody who owns property would have when eminent domain is always a possibility but it simply hasn't been used in the past and the best predictor of the future is looking at what's happened in the past, and this Redevelopment Agency has simply not seen fit to use eminent domain, so he really didn't think it was going to be an issue.

Councilmember Polanski commented that it was an extensive plan; the document before the Council was quite large; she wanted to say to those who spoke and the business owners in the MidTown area that she agreed with her colleagues and did not believe in eminent domain; that was definitely a last resort we need to – as was said –work with the business owners in the MidTown area to revitalize that area; they've been a cornerstone for many years, and she saw it as a partnership working with them to continue having them here and be a part of the community and didn't see it ever being used.

Councilmember Gomez stated he had worked for a couple of cities in his career; seen some of the things eminent domain could do if it was used incorrectly; and wanted to assure everyone that he had no intention of using eminent domain loosely.

Mayor Esteves stated he had always looked at redevelopment of blighted areas as a tool, it was a great financing tool for the City, and one good example was the City Hall.

City Attorney Mattas stated with regard to the power of eminent domain, as the Council is aware, and the public may not be, the exercise of eminent domain does require four affirmative votes on the part of the Council if it's ever exercised, and there is, as Mr. King indicated earlier, a public hearing process that's associated with that as well; with that, Mr. Mayor and members of the Council, staff would recommend that the hearing be closed, with no further action being taken this evening, and the joint meeting be continued to June 3, 2003.

MOTION to close the public hearing and continue the joint meeting of the City Council and Redevelopment Agency to June 3, 2003.

M/S: Livengood, Dixon.

Mayor Esteves asked for clarification if the continuation to June 3<sup>rd</sup> should be made after the whole agency agenda was done because there still was one more item.

City Attorney Mattas suggested amending the motion slightly. The maker and second to the motion agreed.

VOTE ON MOTION to close the public hearing and continue the joint meeting on the Eighth Amendment to the Redevelopment Plan to June 3, 2003: Ayes: 5

City Attorney Mattas said he wanted to be sure that the record was *absolutely clear* - the Council's action was to close the public hearing and to continue the item to June 3<sup>rd</sup> for further actions. Mayor Esteves thanked the City Attorney for the clarification.

**RA6.  
CIVIC CENTER PROJECT  
PROGRESS REPORT**

Redevelopment Projects Manager Greg Armendariz reported there were no action items before the Council/Agency and proceeded to review the City Hall Budget, which showed a project contingency remaining amount of \$165,608. Mr. Armendariz also reviewed the status of the third floor improvements and budget and reported staff was continuing to complete detailed plans for the fourth floor improvements.

MOTION to note receipt and file.

M/S: Polanski, Gomez.

Ayes: 5

**\*RA7.  
RESALE AFFORDABLE  
HOUSING UNIT**

Authorized staff to resale the below market rate affordable housing unit to Mr. Trung Huynh and execute the appropriate legal documents to maintain the long-term affordability.

**\*RA8.  
TERRACE GARDENS  
FINANCIAL REPORT**

Accepted and filed the Terrace Gardens Annual Financial Report for 2002.

**RA9.  
ADJOURNMENT**

There being no further Redevelopment Agency business, Mayor Esteves asked for a motion to continue the joint meeting to June 3, 2003.

MOTION to continue the joint meeting to June 3, 2003.

MS: Livengood, Dixon.

Ayes: 5

The Redevelopment Agency meeting was adjourned at 9:04 p.m.

Gail Blalock  
Secretary/City Clerk